CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 28, 2005

Commodity Exchange Reauthorization Act of 2005

As ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry on July 21, 2005

SUMMARY

The legislation would extend the authority to appropriate funds for the Commodity Futures Trading Commission (CFTC) through 2010. The bill also would amend and clarify the CFTC's jurisdiction over certain futures transactions and financial products. CBO estimates that implementing the legislation would cost $89 million in 2006 and $512 million over the 2006-2010 period, assuming appropriation of the necessary amounts.

CBO also estimates that enacting the bill would increase revenue collections by $30 million in 2006, $150 million over the 2006-2010 period, and $300 million over the 2006-2015 period because it would increase the maximum penalty for price manipulation of commodities. (Civil penalties are recorded in the federal budget as revenues). Enacting the bill would not affect direct spending.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

The bill would impose private-sector mandates, as defined in UMRA, on certain entities involved in retail foreign currency transactions, by changing the criteria to qualify for exclusion from CFTC jurisdiction with regard to those transactions. CBO expects that the direct cost of those mandates would not exceed the annual threshold established by UMRA ($123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit). For this estimate, CBO assumes that the bill will be enacted by the end of 2005, that the estimated amounts will be appropriated for each fiscal year, and that outlays will follow historical trends for spending by the CFTC.

	By Fiscal Year, in Millions of Dollars					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
CFTC Spending Under Current Law						
Budget Authority [a]	94	0	0	0	0	0
Estimated Outlays	95	11	0	0	0	0
Proposed Changes						
Estimated Authorization Level	0	100	103	106	110	113
Estimated Outlays	0	89	101	104	107	111
CFTC Spending Under the Bill						
Estimated Authorization Level [a]	94	100	103	106	110	113
Estimated Outlays	95	100	101	104	107	111
CHANGES IN REVENUES						
Estimated Revenues	0	30	30	30	30	30

a. The 2005 level is the amount appropriated for that year for the Commodity Futures Trading Commission.

BASIS OF ESTIMATE

CBO estimates that implementing the bill would cost $89 million in 2006 and $512 million over the 2006-2010 period to continue current activities of the CFTC and for new tasks specified in the bill. Enacting the legislation would increase revenues by $30 million a year, CBO estimates, for increasing civil monetary penalties for price manipulation of commodities.

Spending Subject to Appropriation

The legislation would extend the authority to appropriate funds for the CFTC through 2010 and would amend and clarify the jurisdiction of the CFTC over certain futures transactions and financial products. Finally, the bill would establish a pilot program involving changes in margin requirements for certain futures products.

For 2005, the CFTC received an appropriation of $94 million. Based on the agency's current budget and adjusting for anticipated inflation, CBO estimates that extending the authorization of appropriations for the current functions of the CFTC would require $98 million in funding for 2006 and $522 million in appropriations over the 2006-2010 period. Based on information provided by the CFTC, CBO estimates that the agency would require 10 additional personnel to manage the increased workload anticipated because of the legislation's impact on the agency's jurisdiction over certain future transactions. We estimate that salaries, benefits, and overhead for those additional staff would cost about $2 million in 2006 and $10 million over the 2006-2010 period.

Revenues

The legislation would increase tenfold the maximum penalties for manipulation of prices in the commodities market. According to the CFTC, collections for these penalties have averaged about $40 million between 2002 and 2004, but were much lower over the previous three-year period. Considering that the CFTC has the authority to assess penalties in amounts less than the maximum penalty set in law, the deterrent effect of increased penalties, and the cyclical nature of violations of these laws over the last several years, CBO expects that, on average, collections from penalties would increase by about $40 million per year. CBO estimates that, under the bill, revenues would increase by $30 million in 2006, $150 million over the 2006-2010 period, and $300 million over the 2006-2015 period, net of income and payroll tax offsets.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

The bill contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, and tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The CFTC has jurisdiction over certain retail foreign currency agreements, contracts, and transactions. The bill may expand the range of such products over which the CFTC has jurisdiction. Under current law, some entities are excluded from the jurisdiction of the CFTC for such transactions. The bill would impose private-sector mandates, as defined in UMRA, on certain entities involved in retail foreign currency transactions by changing the criteria to qualify for an exclusion from CFTC jurisdiction with regard to those transactions. The bill would no longer permit unregistered affiliates of futures commission merchants (FCMs), unregistered affiliates of broker dealers, or "notice registered" broker dealers to be excluded from the jurisdiction of the CFTC regarding their retail foreign currency transactions. For registered FCMs and registered broker dealers to qualify for exclusion, the bill would require that each person who participates in the solicitation or recommendation of such transactions must register with the CFTC or Securities and Exchange Comission and be a member of the National Futures Association or a registered securities association, as applicable.

Some entities that would no longer qualify for exclusion from CFTC jurisdiction under the bill could take certain actions to continue to qualify. For example, unregistered affiliates of broker dealers may move their foreign currency activities into the operations of the registered broker dealer. Based on information from government sources, CBO expects that the direct cost of the mandates in the bill would not exceed the annual threshold established by UMRA ($123 million in 2005, adjusted annually for inflation).

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